

Message Text

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C O N F I D E N T I A L USUN 3546

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS CONFERENCE: COMMITTEE I DEBATE ON AUGUST 30.

SUMMARY: COMMITTEE I NEGOTIATING GROUP CANCELLED ITS AFTERNOON MEETING ON AUGUST 30 TO ALLOW THE CO-CHAIRMEN TO DRAFT INFORMAL PROVISIONS ON THE CRITERIA BY WHICH THE AUTHORITY WOULD BE EMPOWERED TO DENY ACCESS TO STATE AND PRIVATE PARTIES. IN VIEW OF LACK OF AGREEMENT ON THE BASIC PRINCIPLES OF THE SYSTEM OF EXPLOITATION, CO-CHAIRMEN PLAN TO FOCUS ONLY ON "TECHNICALITIES" OF ACCESS. END SUMMARY.

1. COMMITTEE I BEGAN ITS DAY WITH A FORMAL ON THE RECORD MEETING TO DISCUSS CO-CHAIRMEN'S REPORT ON LAST WEEK'S WORK SHOP (POUCHED). NO CHANGES WERE SUGGESTED, BUT US (RATINER) NOTED THAT REPORT OVER-EMPHASIZED G-77 POSITION BECUASE IT COVERED ONLY SPEIFIC PERIOD AND DID NOT INCLUDE VIEWS EXPRESSED IN EARLIER WEEKS ON THE SUBJECTS UNDER
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DISCUSSION. THIS PRODUCED A ADISTORTED IMPRESSION OF THE

RANGE OF OPINIONS IN G-77 AND THE COMMITTEE IF THE REPORTS WERE READ IN ISOLATION. RATINER SUGGESTED THAT THE CO-CHAIRMEN KEEP THIS PROBLEM IN MIND AND PERHAPS ADD TO THE REPORTS THE NECESSARY PERSPECTIVE AND BALANCE. THYS PRC IN TURN COMPLAINED THAT THE REPORTS DID NOT ADEQUATELY REFLECT THE "MAJORITY VIEW".

2. THE C-I NEGOTIATING GROUP FOLLOWED. PERU (DESOTO) OPENED BY SUGGESTING THAT, IN ORDER TO FOCUS DISCUSSION, THE CO-CHAIRMEN ON AN INFORMAL BASIS DRAFT PROVISIONS ON THE QUESTIONS THAT HAD BEEN UNDER DISCUSSION IN THE GROUP, I.E. THE CRITERIA AND CONDITIONS THAT APPLICANTS MUST MEET (PARA. 7 AND 9 OF ANNEX I). DESOTO RECOMMENDED THAT THE NEGOTIATING GROUP ADJOURN TO ALLOW THE CO-CHAIRMEN TIME TO WORK AND ADDED THAT THIS WOULD ALSO ALLOW THE GROUP OF 77 TO COMPLETE WORK ON ITS DRAFT ARTICLE 9. THE PRESIDING CO-CHAIRMAN (SONDAAL) EXPRESSED CONCERN THAT IN THE ABSENCE OF A CONSENSUS ON THE BASIC PRINCIPLES OF EXPLOITATION IT WOULD BE EXTREMELY DIFFICULT FOR THE CHAIRMEN TO UNDERTAKE THIS TASK, AND A NUMBER OF DELEGATIONS EXPRESSED THE VIEW THAT IT WAS PREMATURE TO BEGIN ANY DRAFTING. THE US AGREED THAT WE HAD NOT REACHED TO STAGE WHEN THE DRAFTING OF NEW PARAGRAPHS TO THE ANNEX WOULD BE USEFUL BUT SUGGESTED THAT IT WOULD BE A USEFUL NEGOTIATING TOOL IF THE CHAIR UNDERTOOK TO PREPARE, WITHOUT REFERENCE TO ANY PARTICULAR PART OF THE TEXT, A LIST OF CRITERIA BY WHICH THE AUTHORITY COULD REFUSE TO ENTER NEGOTIATIONS OR CONCLUDE A CONTRACT WITH AN APPLICANT. RATINER ALSO SUGGESTED THAT THE CO-CHAIRMEN CONSULT WITH INTERESTED DELEGATIONS IN DRAWING UP THE LIST, A SUGGESTION THAT WAS ACCEPTED.

4. THE ONLY SUBSTANTIVE ISSUE THAT CAME UP IN THE COURSE OF THE DAY WAS A DISCUSSION ON THE MEANING OF AUTOMATIC ACCESS. JAMAICA (RATTRAY) NOTED THAT THERE WAS SOME CONFUSION ABOUT THE MEANING OF "AUTHENTICITY" SINCE EVER THE STATES THAT PUSHED THIS POSITION ACKNOWLEDGED THAT THERE WERE CONDITIONS BY WHICH THE AUTHORITY COULD REFUSE ACCESS. THE US ACKNOWLEDGED THAT "AUTOMATICITY" MISREPRESENTED ISSUE WHEREUPON TANZANIA INTERVENED TO STATE THAT CONFIDENTIAL

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IF AUTOMATIC ACCESS WAS NOT A PROBLEM, PERHAPS THE INDUSTRIALIZED STATES COULD AGREE THAT THE AUTHORITY HAD THE DISCRETION TO UNDERTAKE ALL EXPLOITATION AND COULD ACKNOWLEDGE THAT STATE AND PRIVATE ACCESS WAS SIMPLY A MEANS FOR THE ENTERPRISE TO ACQUIRE THE NECESSARY CAPACITY FOR EXPLOITATION AND WOULD TERMINATE AFTER THIS HAD BEEN ACCOMPLISHED. THE US RESPONDED THAT TANZANIA HAD CONFUSED "AUTOMATIC ACCESS" WITH GUARANTEED ACCESS. IF

THE CONVENTION IS TO BE ACCEPTABLE TO THE US AND OTHER
INDUSTRIALIZED STATES, IT MUST PERMANENTLY GUARANTEE
THE RIGHT OF ACCESS TO STATES AND THEIR NATIONALS.
RATINER ALSO STATED THAT OUT PRIVATE CONVERSATIONS
INDICATED THAT TANZANIA'S VIEWS WERE NOT SHARED BY A
MAJORITY OF THE GROUP OF 77.

5. COMMENT: IF THE CO-CHAIRMEN ARE SUCCESSFUL IN
DRAWING UP A LIST (PRELIMINARY EFFORTS EVENING OF AUGUST
30 FAILED), IT SHOULD FOCUS DISCUSSION AND PERHAPS REMOVE
SOME MISUNDERSTANDINGS. DEBATE ON SUCH A LIST,
HOWEVER, WILL ALSO UNDERLINE THE FUNDAMENTAL GAP BETWEEN
THE MAJOR INDUSTRIALIZED STATES AND THE G-77 CURRENT
POSITION ON THE QUESTION OF ACCESS.
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